UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

**Melissa Ann Rice,**

Debtor.

______________________________________/

Case No. 16-57092-mlo

Chapter 7

Hon. Maria L. Oxholm

**Daniel M. McDermott,**
**United States Trustee,**

Plaintiff,

v.

**Melissa Ann Rice,**

Defendant.

______________________________________/

Adversary Case No.

**COMPLAINT FOR DENIAL OF DISCHARGE UNDER**
**11 U.S.C. § 727(a)(2), (a)(3), (a)(4)(A), (a)(4)(D), (a)(5) AND (a)(6)**

Daniel M. McDermott, United States Trustee, complains of the Defendant, Melissa Rice, as follows:

**COMMON ALLEGATIONS**

1. Defendant Melissa Ann Rice is an individual residing, according to her petition, at 5730 S. Posey Lake Highway, Hudson, Michigan 49247.

2. Defendant filed a Chapter 7 voluntary petition on December 22, 2016.

3. This is a core proceeding under 28 U.S.C. § 157(b)(2)(J), over which this Court has jurisdiction under 28 U.S.C. § 1334.

4. Plaintiff Daniel M. McDermott is the United States Trustee for Region 9, comprised of the States of Michigan and Ohio.

5. Under this Court's *Order Precluding Objection to the Late Filing of a Motion under § 707(b)(2) and for Extension of Time to File Objections to Discharge or Motion to Dismiss Case under § 707(b)(3)* (Doc. #36), the deadline for the United States Trustee to object to the Defendant's discharge is May 12, 2017.

6. The Defendant filed her Petition, on December 22, 2016 (Doc. #1) and her Schedules and Statement of Financial Affairs (SOFA) on January 5, 2017 (Doc. #11). The documents were signed by the Defendant under penalty of perjury.

7. Defendant's Schedule I lists $1,284.00 monthly income from employment at Hollywood Pets and non-filing spouse monthly income of $10,579.00 from employment at Golling Chrysler.

8. On March 27, 2017, Defendant filed Amended Schedules and Amended SOFA.

9. Defendant's Amended Schedule I lists "0" income for herself and $305.00 per month in child support.

10. Defendant has yet to appear at a 341 Meeting of Creditors.

11. The 341 Meeting has been adjourned 5 times due to Defendant's failure to appear.

12. On February 6, 2017 the Chapter 7 Trustee sent Defendant a request for, "Any and all business records and documents tied to any business expenses of the Debtor and any business income of the Debtor between January 1, 2016 and the present."

13. On April 12, 2017, the Court entered an Order for a 2004 Exam (Doc. #57).

14. The Order required the Defendant to produce all business records tied to any business she operated.

15. The only business documents she provided were bank statements from an account closed in December 2015 and tied to her business Pet Grooming By Melissa.

16. The 2004 Exam took place on May 5, 2017.

17. As further explained below, Defendant concealed her ownership interests in, business assets, and income from Barnwood Quarter Horses and Pet Grooming By Melissa, and transferred assets in violation of 11 U.S.C. § 727(a)(2). Defendant also concealed, destroyed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records, and

papers, from which the her financial condition or business transactions might be ascertained in violation of 11 U.S.C. § 727(a)(3). Defendant made numerous written and oral false oaths at her 2004 Exam and in her filings about her businesses, income, and assets in violation of 11 U.S.C. § 727(a)(4)(A). Defendant failed to provide to the Chapter 7 Trustee with all business documents from both businesses in violation of 11 U.S.C. § 727(a)(4)(D). Defendant failed to provide a satisfactory explanation of the dissipation of her personal assets and the assets of her businesses in violation of 11 U.S.C. § 727(a)(5). Lastly, Defendant failed to obey an order of the Court when she failed to provide all documents listed in the 2004 Exam Order in violation of 11 U.S.C. § 727(a)(6).

**BARNWOOD QUARTER HORSES**

18. Defendant lives with her husband, Roy Rice, and her daughter on their farm in Hudson, Michigan.

19. The farm has a 10 horse stall barn with an indoor riding arena.

20. Defendant owns and operates Barnwood Quarter Horses ("Barnwood").

21. The business was not disclosed on SOFA or Amended SOFA.

22. Defendant failed to provide any business records or other documents relating to Barnwood.

23. Barnwood leases horse stalls to the public.

24. Barnwood assists in the sale of horses for a commission.

25. Barnwood sells horses owned by the business and by the Rice family.

26. Barnwood has a public Facebook account in which it advertises it services, lists horses for sale, and discusses up and coming prospects owned by the Rice family.

27. The page has been active since 2014.

28. Defendant sold a registered Quarter Horse, *Lookin For My Invite*, sometime after January 1, 2017.

29. Defendant sold a registered Quarter Horse, *Luke at Me Win*, in the middle of March 2017.

30. Defendant failed to list the sales on Amended SOFA, Question 9.

31. Defendant failed to list any income from Barnwood in her Means Test, Amended Meant Test, Schedules, Amended Schedules, SOFA and Amended SOFA.

32. The Defendant owns *Girls Like a Goodbar* ("Smokey"), a registered Quarter Horse stallion.

33. Smokey was sired by *Zippos Mr. Goodbar*, a champion Quarter Horse inducted into the NSBA Hall of Fame and sire of numerous Word Champion offspring.

34. Based on Defendant's historical Facebook posts and internet advertising, Defendant intends to use Smokey as a show horse and to sell breeding rights to the public.

35. In addition to the horses previously discussed, Defendant has other horses on the property including, but not limited to, a mare and foal.

36. The foal is sired by *Coats N Tails*, a world champion Quarter Horse who is the sire of numerous world champions and has a stud fee of $2,000.00.

37. Defendant intends to sell the foal.

38. Defendant disclosed only 1 horse in her filings.

39. She valued the horse, 1 donkey, and chickens at $600.00.

40. Defendant failed to disclose the Barnwood business, assets related to Barnwood, and undervalued the assets she did disclose.

**PET GROOMING BY MELISSA**

41. Defendant owns and operates Pet Grooming By Melissa ("Melissa's Pet Grooming").

42. Melissa's Pet Grooming has a public Facebook account in which it advertises it services, lists specials, and keeps clients apprised of current events.

43. The business began in 2004 and originally operated out of Chelsea, Michigan.

44. According to the business's Facebook page, Defendant later opened a second location out of her home in Hudson, Michigan in August 2014.

45. Defendant disclosed Melissa's Pet Grooming on her SOFA, but listed the business as ceasing operations in 2014.

46. The business is still operating.

47. The business is still generating income.

48. Defendant's personal bank records show a steady stream of monthly income from the business.

49. Defendant failed to list any income from Melissa's Pet Grooming in her Means Test, Amended Meant Test, Schedules, Amended Schedules, SOFA and Amended SOFA.

50. Defendant failed to provide any business records or other documents relating to current operations.

**THE 2004 EXAM**

51. At the 2004 Exam, Defendant testified under oath that her Petition, Schedules, Means Test, and SOFA were true, accurate, and complete.

52. Defendant testified that she has no income other than child support.

53. She testified that she previously worked as a contract pet groomer at Hollywood Pets, but has been unemployed since December 2016 due to health issues.

54. She testified that her business, Pet Grooming By Melissa, ceased operations in December 2015.

55. She further testified that Pet Grooming By Melissa only operated out of Chelsea, Michigan.

56. Defendant testified that her farm is for personal use only and is not used for any business purpose.

57. When asked about the one horse she listed in her bankruptcy filings, Defendant testified that he is crippled, cannot be ridden, and is a "pasture pet."

58. Defendant testified that the name of her horse is *A Good Game* and she calls him "Wyatt."

59. Defendant went on to testify that only Wyatt and a mare and foal are on the property.

60. She stated that she sold the mare for $500.00, but the mare remains at the farm.

61. She testified she has only sold one other horse on her own behalf.

62. She further testified that her family has never sold a horse for more than $3,500.00.

**FASLSE OATHS AND CONCEALMENT AT THE 2004 EXAM**

63. In all of these statements, Defendant made a false oath and attempted to conceal her assets.

64. Defendant currently owns and operates Barnwood Quarter Horses.

65. Defendant currently owns and operates Pet Grooming By Melissa.

66. Defendant uses her farm for her horse business, Barnwood.

67. Pet Grooming By Melissa operates out of Defendant's home.

68. Defendant receives income from both businesses.

69. Defendant owns the registered Quarter Horse *Girls Love A Goodbar* "Smokey."

70. Defendant intends to use Smokey as a show horse and sell breeding rights.

71. Defendant has numerous other horses on the farm.

72. In 2015 and 2016, Defendant personally owned a number of horses and consistently engaged in horse sales.

73. The mare currently at her farm was advertised for $5,000.00.

74. In 2014, she advertised a horse for $17,500.00.

**DEFENDANT'S OTHER NON-DISCLOSURES**

75. Defendant failed to disclose additional income and assets in her Schedules, Amended Schedules, SOFA, and Amended SOFA.

76. Defendant testified at the 2004 Exam that she sells crafts on Etsy.

77. She further testified that she has not sold anything on Etsy in the last year.

78. Defendant received income from sales on Etsy in 2017.

79. The income from the sales is not disclosed in her bankruptcy filings.

80. Defendant further testified that she has a PayPal account.

81. The account was not disclosed in her filings.

82. Defendant has an engagement ring which was appraised in December 2011 for $10,700.00.

83. Defendant's Schedules and Amended Schedules only reveal $1,500.00 in jewelry.

84. Defendant's bank records reveal significant gambling losses.

85. Defendant failed to list any gambling losses in her filings.

**COUNT I**
**DENIAL OF DISCHARGE UNDER 11 U.S.C. § 727(a)(2)**

86. Plaintiff hereby incorporates and restates paragraphs 1 through 85 as if fully stated herein.

87. In accordance with 11 U.S.C. § 727(a)(2), the Court shall grant the Debtor a discharge unless - -

> the debtor, with the intent to hinder, delay, or defraud a creditor or an officer of the estate charged with custody of property under this title, has transferred, removed, destroyed, mutilated or concealed, or has permitted to be transferred, removed, destroyed, mutilated, or concealed - -
>
> > (A) property of the debtor, within one year before the date of the filing of the petition; or

(B) property of the estate, after the date of the filing of the petition.

88. The Defendant, with the intent to hinder, delay or defraud a creditor, have transferred, removed, destroyed, mutilated or concealed property, before and after the filing of the Petition.

89. The Defendant's failure to disclose her businesses interests, assets, sales, and income constitutes concealment with an intent to hinder, delay, or defraud a creditor or an officer of the estate, under 11 U.S.C. § 727(a)(2).

90. The Defendant's transfers of personal property before and after the filing of the petition constitutes transfers with intent to hinder, delay or defraud a creditor, under 11 U.S.C. § 727(a)(2).

**WHEREFORE**, Plaintiff Daniel M. McDermott, United States Trustee, respectfully requests that this Honorable Court deny Defendant's discharge under 11 U.S.C. § 727(a)(2).

**COUNT II**
**DENIAL OF DISCHARGE UNDER 11 U.S.C. § 727(a)(3)**

91. Plaintiff hereby incorporates and restates paragraphs 1 through 90 as if fully stated herein.

92. In accordance with 11 U.S.C. § 727(a)(3), the Court shall grant the Debtors a discharge unless - -

> the debtor has concealed, destroyed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records, and papers, from which the debtor's financial condition or business transactions might be ascertained, unless such act or failure to act was justified under all of the circumstances of the case[.]

93. As set forth above, the Defendant has failed to provide, and thus either concealed, destroyed, falsified, or failed to keep information, including books, documents, records and papers from which her financial condition or business transactions might be ascertained.

94. The failure of Defendant to act in accordance with her duties under the Code, failure to produce documents reasonably requested by the Chapter 7 Trustee and failure to comply with an order under Rule 2004 do not appear justified.

**WHEREFORE**, Plaintiff, Daniel M. McDermott, United States Trustee, respectfully requests that this Honorable Court deny Defendant's discharge under 11 U.S.C. § 727(a)(3).

## COUNT III
## DENIAL OF DISCHARGE UNDER 11 U.S.C. § 727(a)(4)

95. Plaintiff incorporates and restates paragraphs 1 through 94 as if fully stated in this complaint.

96. In accordance with 11 U.S.C. § 727(a)(4), the Court shall grant the Debtors a discharge unless - -

> the debtor knowingly and fraudulently, in or in connection with the case - -
>
> (A) made a false oath or account;
>
> (B) presented or used a false claim;
>
> (C) gave, offered, received, or attempted to obtain money, property, or advantage or a promise of money, property or advantage, for acting or forbearing to act; or
>
> (D) withheld from an officer of the estate entitled to possession under this title, any recorded information, including books, documents, records and papers relating to the debtor's property or financial affairs.

97. The Debtor through the False Oaths, knowingly and fraudulently failed to fully and accurately described her financial dealings and assets, and made numerous false oaths in her written and oral statements in her bankruptcy filings and 2004 Exam testimony under oath in violation of 11 U.S.C. § 727(a)(4)(A).

**WHEREFORE**, Plaintiff Daniel M. McDermott, United States Trustee, respectfully requests that this Honorable Court deny Defendant's discharge under 11 U.S.C. § 727(a)(4).

## COUNT IV
## DENIAL OF DISCHARGE UNDER 11 U.S.C. § 727(a)(4)(D)

98. Plaintiff hereby incorporates and restates paragraphs 1 through 97 as if fully stated herein.

99. In accordance with 11 U.S.C. § 727(a)(4), the Court shall grant the Debtors a discharge unless - -

> the debtor knowingly and fraudulently, in or in connection with the case - -
>
> > (A) made a false oath or account;
> >
> > (B) presented or used a false claim;
> >
> > (C) gave, offered, received, or attempted to obtain money, property, or advantage or a promise of money, property or advantage, for acting or forbearing to act; or
> >
> > (D) withheld from an officer of the estate entitled to possession under this title, any recorded information, including books, documents, records and papers relating to the debtor's property or financial affairs.

100. The Chapter 7 Trustee assigned to the Defendant's bankruptcy estate is an "officer of the estate" within the meaning of 11 U.S.C. § 727(a)(4)(D).

101. As set forth above, the Defendant has withheld from the Chapter 7 Trustee recorded information, including books, documents, records, and papers relating to the Defendant's property, financial affairs, and businesses.

**WHEREFORE**, Plaintiff Daniel M. McDermott, United States Trustee, respectfully requests that this Honorable Court deny Defendant's discharge under 11 U.S.C. § 727(a)(4).

**COUNT V**
**DENIAL OF DISCHARGE UNDER 11 U.S.C. § 727(a)(5)**

102. Plaintiff hereby incorporates and restates paragraphs 1 through 101 as if fully stated herein.

103. In accordance with 11 U.S.C. § 727(a)(5), the Court shall grant the Debtors a discharge unless - -

> the debtor has failed to explain satisfactorily, before determination of denial of discharge under this paragraph, any loss of assets or deficiency of assets to meet the debtor's liabilities[.]

104. As set forth above, the Defendant has failed to explain satisfactorily the loss of deficiency of assets to meet her liabilities through her filings and 2004 Exam testimony relating to her personal assets, Barnwood, and Melissa's Pet Grooming.

**WHEREFORE**, Plaintiff Daniel M. McDermott, United States Trustee, respectfully requests that this Honorable Court deny Defendant's discharge under 11 U.S.C. § 727(a)(5).

## COUNT VI
## DENIAL OF DISCHARGE UNDER 11 U.S.C. § 727(a)(6)

105. Plaintiff hereby incorporates paragraphs 1 through 104 as if fully stated herein.

106. In accordance with 11 U.S.C. § 727(a)(6), the Court shall grant the Debtors a discharge unless - -

> the debtor has refused, in the case - -
>
> > (A) to obey any lawful order of the court, other than an order to respond to a material question or to testify; . . .

107. As set forth above, the Defendant has failed to obey a lawful order of the Court – Order to Produce Documents and Conduct 2004 Examination, Docket

#35– by failing to produce the documents required in that Order, including but not limited to business documents relating to Barnwood and Melissa's Pet Grooming.

**WHEREFORE**, Plaintiff Daniel M. McDermott, United States Trustee, respectfully requests that this Honorable Court deny Defendant's discharge under 11 U.S.C. § 727(a)(6).

Respectfully submitted,

**DANIEL M. McDERMOTT**
**UNITED STATES TRUSTEE**
Region 9

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